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15 Attorneys for Plaintiffs  
ANDRE SCOTT, KEN FASSLER, and ELIJAH  
16 MAXWELL-WILSON

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

19 ANDRE SCOTT, an individual; KEN  
20 FASSLER, an individual; ELIJAH  
21 MAXWELL-WILSON, an individual, and on  
behalf of themselves, all others similarly  
situated,

22 Plaintiffs,

23 vs.

24 COMCAST CABLE COMMUNICATIONS  
25 MANAGEMENT, LLC, a Delaware  
corporation; and DOES 1-50, inclusive,

26 Defendants.

27 Case No. 3:16-cv-06869-EMC

28 **STIPULATION AND [PROPOSED]  
ORDER REGARDING PLAINTIFF  
FASSLER'S FLSA CLAIM AND  
PRESERVING COMCAST'S RIGHT TO  
MOVE TO COMPEL CLAIMS TO  
ARBITRATION**

Complaint Filed: November 30, 2016  
Trial Date: None Set

1

**STIPULATION**

2

3       Defendant Comcast Cable Communications Management, LLC (“Comcast”) and  
4 Plaintiffs Andre Scott, Ken Fassler, and Elijah Maxwell-Wilson (“Plaintiffs”) (collectively, the  
5 “Parties”), through their undersigned counsel of record, stipulate that Comcast does not waive its  
6 right to move to compel the claims of Plaintiff Ken Fassler and unnamed putative class members  
7 to arbitration on a non-class, non-collective basis as follows:

8           WHEREAS, on November 30, 2016, Plaintiffs filed a putative class and collective action  
9 complaint in this Court alleging the following causes of action: (1) failure to provide meal periods  
10 in violation of California Labor Code Sections 204, 223, 226.7, 512, and 1198; (2) failure to  
11 provide rest periods in violation of California Labor Code Sections 204, 223, 226.7, and 1198; (3)  
12 failure to pay all minimum and overtime wages in violation of California Labor Code Sections  
13 223, 510, 1194, 1197 and 1198; (4) failure to timely pay all wages due in violation of California  
14 Labor Code Sections 201, 202, and 203; (5) unfair business practices in violation of California  
15 Business & Professions Code Sections 17200, *et seq.*; and (6) failure to pay wages for all hours  
16 worked under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. Sections 201, *et seq.*;

17           WHEREAS, on December 16, 2016, Comcast requested that Plaintiff Fassler dismiss his  
18 claims asserted on behalf of the putative class and submit his claims on a non-class and non-  
19 collective basis to either mediation or arbitration in accordance with Comcast’s alternative  
20 dispute resolution program entitled Comcast Solutions, which Comcast contends contains a valid  
21 and enforceable agreement to arbitrate on an individual basis;

22           WHEREAS, Comcast further maintains that putative members of the purported class  
23 and/or collective actions have also entered into the Comcast Solutions agreements to arbitrate on  
24 an individual basis that encompass all of the claims alleged in the First Amended Complaint;

25           WHEREAS, the Parties’ counsel have extensively met and conferred regarding the  
26 Comcast Solutions agreements to arbitrate on a non-class and non-collective basis;

27           WHEREAS, on March 2, 2017, the Parties appeared at the initial case management  
28 conference, where the Court ordered the Parties to complete private mediation by August 1, 2017;

WHEREAS, to effectuate a meaningful mediation and in the interest of conserving judicial resources, the Parties agree that Plaintiff Fassler will not litigate or seek discovery regarding the FLSA claim in the Sixth Claim for Relief. The Parties further agree that Comcast will not move to compel Plaintiff Fassler's claims to arbitration, if at all, until after mediation is complete, and that Comcast may engage in initial discovery of Plaintiff Fassler's claims, including written discovery and depositions, without waiving its right to seek to compel Plaintiff Fassler's claims to arbitration after mediation is complete.

## **IT IS SO STIPULATED.**

Dated: May 19, 2017

MORGAN, LEWIS & BOCKIUS LLP

By \_\_\_\_\_ /s/ *Daryl S. Landy*  
DARYL S. LANDY

Attorneys for Defendant  
COMCAST CABLE COMMUNICATIONS  
MANAGEMENT, LLC

Dated: May 19, 2017

SETAREH LAW GROUP

By /s/ Thomas Segal  
SHAUN SETAREH  
THOMAS SEGAL

Attorneys for Plaintiffs  
ANDRE SCOTT, KEN FASSLER, and ELIJAH  
MAXWELL-WILSON

## **ATTESTATION**

I, Daryl S. Landy, am the ECF user whose identification and password are being used to file this Stipulation and [Proposed] Order Regarding Plaintiff Fassler's FLSA Claim and Preserving Comcast's Right to Move to Compel Arbitration of Claims To Arbitration. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Thomas Segal concurs in this filing.

DATED: May 19, 2017

## MORGAN, LEWIS & BOCKIUS LLP

By /s/ *Daryl S. Landy*

DARYL S. LANDY

**[PROPOSED] ORDER**

For the reasons stated in the Parties' Stipulation, Plaintiff Ken Fassler will not litigate or seek discovery regarding his Sixth Claim for Relief under the Fair Labor Standards Act ("FLSA"). Comcast will not move to compel Plaintiff Fassler's claims to arbitration, if at all, until after mediation is complete, and Comcast may engage in initial discovery of Plaintiff Fassler's claims, including written discovery and depositions, without waiving its right to seek to compel Plaintiff Fassler's claims to arbitration after mediation is complete.

## **IT IS SO ORDERED.**

DATED: 5/26, 2017

